

BETWEEN:

MR LEON DILBERT

Plaintiff

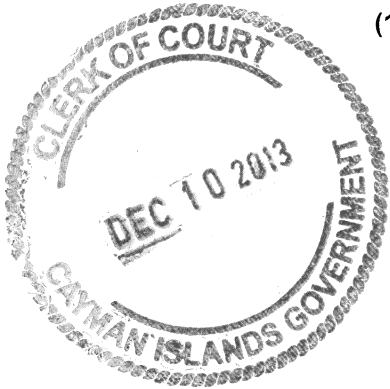
V.

(1) THE DEPARTMENT OF VEHICLE AND EQUIPMENT SERVICES

(2) THE DEPARTMENT OF IMMIGRATION

(3) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

Defendants



WRIT OF SUMMONS

TO: The Department of Vehicle and Equipment Services
The Department of Immigration
The Attorney General of the Cayman Islands
c/o 4th Floor, General Administration Building
Elgin Avenue
Grand Cayman, KY1-9000
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 Days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 10th day of December 2013

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Department of Vehicle and Equipment Services on behalf of the Department of Immigration and as part of its usual and customary activities, from time to time seeks to auction goods which it has acquired (usually by way of seizure of unlawfully imported goods) for the benefit of the public finances.

The Contract of Sale

2. At an auction sale conducted on Friday, 27 September 2013 for and on behalf of the First and/or Second Defendant, Mr. Pierre Foster ("**Mr. Foster**"), acting as an agent on behalf of the Plaintiff, was the highest bidder for a 36 ft. Yellow Fin Vessel, Centre Console, Serial #YFY44875K506, comprising of Triple 350HP Yamaha Four Stroke Outboards, with Electronic Accessories, One Garmin 6212 GPS MAP, One Garmin Autopilot, One Furunco FCV-585 Chart Plotter and One HD Radar (the "**Vessel**"), in the said sale, at the sum of CI\$15,500.00. The Vessel was knocked down to Mr. Foster, as agent on behalf of the Plaintiff, at the said sum (the "**Contract**").
3. It was a condition of the said Contract that the Vessel should be delivered to Mr. Foster on payment of the purchase price to the First and/or Second Defendant. Pursuant to that condition, on 30 September 2013, Mr Foster tendered the purchase price of the said Vessel, namely the sum of CI\$15,500.00 by way of Bankers Draft payable to the Cayman Islands Government at the compound of the Department of Vehicle and Equipment Services. This payment was accepted by the Cayman Islands Government on behalf of the First and/or Second Defendant.

The Breach

4. In breach of the condition mentioned above, the First and/or Second Defendants have failed to deliver the Vessel to the Plaintiff or Mr. Foster. In light of this failure, the Plaintiff made several requests to the Ministry of Home & Community Affairs for the delivery of the Vessel.

5. Upon the First and/or Second Defendant's failure to comply with those requests, the Plaintiff retained attorneys, Stuarts Walker Hersant, who, on 14 October 2013 and 25 October 2013, wrote to the Ministry of Home & Community Affairs repeating the Plaintiff's requests for delivery of the Vessel. No response at all has been received to either of the letters dated 14 October 2013 and 25 October 2013 to date.
6. By its wrongful refusal to deliver the Vessel to the Plaintiff, or his agents, the First and/or Second Defendant is in breach of the afore-mentioned condition of sale.
7. By reason of the matters mentioned aforesaid, the Plaintiff has suffered loss and damage.
8. Further, the Plaintiff is entitled to and claims interest pursuant to section 34(1) of the Judicature Law (2007 Revision) on the amount found to be due to him from the date of sale until the date of judgment at such rate as the Court shall think fit.

AND THE PLAINTIFF CLAIMS:-

- (1) specific performance of the contract of sale;
- (2) further or in the alternative, damages for breach of the said contract of sale;
- (3) interest pursuant to section 34(1) of the Judicature Law (2007 Revision);
- (4) costs on an indemnity basis, to be taxed if not agreed.

DATED this 10th day of December 2013


STUARTS WALKER HERSANT
Attorneys-at-law for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2013

BETWEEN:

MR LEON DILBERT

Plaintiff

V.

(1) THE DEPARTMENT OF VEHICLE AND EQUIPMENT SERVICES

(2) THE DEPARTMENT OF IMMIGRATION

THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

Defendant

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS

FORM MAY HAVE TO BE RETURNED. Delay may result in Judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged

2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

Yes No

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a Stay of Execution against any judgment entered by the Plaintiff (tick box)

Yes No

Service of the Writ of Summons is acknowledged accordingly

(Signed) _____
Attorney for

NOTE ON ADDRESS FOR SERVICE

Attorney: Where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he/she must give his post office box number and the physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her should be sent. In the case of a Limited Company "residence" means its registered or principal office.

Indorsement by Plaintiff's Attorney (or by Plaintiff if suing in person) of his/her name, address and reference, if any, in the box below.

STUARTS WALKER HERSANT Attorneys-at-Law 4 th Floor, Cayman Financial Centre 36A Dr. Roy's Drive P.O. Box 2510 GT George Town Grand Cayman, KY1-1104 Cayman Islands Tel: 345 949 3344 Fax: 345 949 2888 Ref: 5981

Endorsement by Defendant's Attorney (or by Defendant if responding in person) of his/her name, address and reference, if any, in the box below.

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DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF
WRIT OF SUMMONS

1. The accompanying form of **Acknowledgment of Service** should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion, it must be delivered or sent by post to the Law Courts, PO Box 495, George Town, Grand Cayman.
2. A Defendant who states in his Acknowledgment of Service that he intends to contest the Proceedings **must also serve a Defence** on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for Judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter Judgment against him without further notice.

3. A **Stay of Execution** against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any Judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a Stay, Execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, **issue a Summons** for a Stay of Execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for Notes of Guidance

Notes for Guidance:

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a Writ served on the Defendant personally is treated as having been served on the day it was delivered to him/her.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an Attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.